

RECEIVED

MAY 15 2008

IN The United States District Court
For The Western District of Pennsylvania

CLERK U.S. DISTRICT COURT
WEST. DIST. OF PENNSYLVANIA

Civil Action No. 1:08-CV-148

AARON C. London # 37992-060, the Petitioner

v.

United States of America, the Respondant

A Motion For Relief Pursuant to Rule
60(B)(4) thru AN Independant Action
of The District Court

Submitted By,
Pro-Se Litigant
AARON C. London

cc: INTERNATIONAL Court

U.N. NATIONS

Anonymous Art. III § 2 Probe

Table Of Contents

Statement Of Jurisdiction	A
Table Of Authorities	B1-B5
Pro'Se Litigant	C
Note To The Court	D
The Petitioners Lack of Statutory Jurisdiction	
Claims	pgs. 1-12
Violation Of Due Process Claims	pgs. 13-22
The Conclusion	pgs. 23-26
Supplemental Appendix	Supp. Appx. 1-25
Certificate Of Service	E

Statement Of Jurisdiction

The U.S. District Court has jurisdiction under Rule 60(B)(4) of the Fed. Civ. Rules of Proc. to VACATE ANY judgement that is void. Via An Independent Action Of the Court.

Also the Petitioners challenge of AN invalid conviction is sufficient enough for Art. III § 2 standing. SPENCER V. KEMNA, 140 L. Ed 2d At 50 [26].

Table Of Authorities

Statement Of Jurisdiction

Fed. R. of Civ. Proc. Rule 60(B)(4) A
 Art. III § 2 A
 Spencer v. Kemna, 140 L.Ed2d at 50 [26] A

Pro Se Litigant

U.S. v. GARTH, 188 F.3d at 108 (3d Cir. 1999) C
 Haynes v. Kerner, 404 U.S. 520-21 (1972) C

Note To The Court

Stutson v. U.S. (1996), 516 U.S. at 194-95 D
 18 § 241 and 242 D
 U.S. v. LANIER, 520 U.S. at 270 D

The Petitioners Lack Of Jurisdiction Claims

Rule 60(B)(4) 2
 Raymark Indus Inc. v. Lai 973 F.2d 1125,
 1132 (3d Cir. 1992) 2
 Marshall v. Bd. of Educ. 575 F.2d Id. at
 422 (3d Cir. 1978) 2
 Betz v. F.D.I.C., 99 F.3d at 905 (9th Cir.
 1996). 3
 12 USC § 1813 (c) 3
 18 U.S.C. § 2113 (f) 3

Table Of Authorities

Legal Research and Writing by William P. Statsky (5 th Edition) pg. 235-36	4
§101, Banking Act of 1935, ch. 614, 49 Stat. 684, 685-86	4
F.D.I.C. v. Phila. Gear Corp., 476 U.S. at 437	4
See H.R. Rep. No. 1827, 86 th Congress 2d. Sess. 10 (1960) (SAME)	5
U.S. v. Sanders, 165 F.3d at 251 (3 rd Cir. 1999)	6
Necessary And Proper Clause	6
P. Supp. Appx. 4, 5, 6, 7	6, 6, 6
P. Supp. Appx. 8, 9, 10	6, 6, 6 6
12 U.S.C. 588(b), 588(c) and 588(d)	6
18 § 3231	6
History: Ancillary Laws And Directives ON 18 § 3231	6, 7
P. Supp. Appx. 4, 5, 6, 7, 8, 9, 10	7
Black's Law Dictionary 6 th Edition pg. 803	7
U.S. v. Lee, 359 F.3d 194, 209 (3 rd Cir. 2004)	8

Lack Of Art. III § 2 Jurisdiction

Art III § 2	8
-----------------------	---

Table Of Authorities

Okereke v. U.S., 307 F.3d at 12 (N.Y. 3d Cir. 2002)	9
Lujan v. Def. of Wildlife, 504 U.S. 555, 560	9
P. Supp. Appx. 2	9
O'Shea v. Littleton, 38 L.Ed 2d at 684	9, 10
P. Supp. Appx. 3, 12 and 13	10
Atherton v. F.D.I.C., (1997) 136 L.Ed 2d at 668, 669	10
Willing v. Chicago And Assoc. 277 U.S. Id. at 288	10
Onieda Indian Nat. of N.Y. v. County of Onieda, 414 U.S. 661, 666	11

Lack Of Statutory Jurisdiction under 18 § 3231

18 § 3231	11
P. Supp. Appx. 4-10	12

Violation Of Due Process Claims

Rule 60 (B)(4)	14
10 th Amend. U.S. Const.	14
Constr. Drilling, Inc. v. Chusid, 131 Fed. Appx. 366, 372 (3d Cir. 2005)	14

Table Of Authorities

18 § 2113 (f)	15
Due Process Clause	15
P. Supp. Appx. 4-10	15
U.S. v. Lopez (1995) 514 U.S. at	
584	16
Kennedy v. Mendoza-Martinez, 9	
L.Ed 2d 644 (1963)	16

Violation Of Due Process / Void Statute / Not Necessary And Proper

Desousa v. Reno, 190 F.3d at 184-85	
(3d Cir. 1999)	17
Ex Parte Siebold, 100 U.S. 371 (1879)	17
Necessary And Proper Clause	17
U.S. v. Tyler, 281 F.3d at 92 (3d Cir.	
2002)	17
P. Supp. Appx. 6, 9 And 10	17
P. Supp. Appx. 3, 12 And 13	18
U.S. v. Lopez, 514 U.S. Id. at 567	18

Violation Of Due Process / Insufficiency Of Evidence On Jurisdictional Element

P. Supp. Appx. 14-16	19
U.S. v. McIntosh, 463 F.2d 250 (3d	

Table Of Authorities

Cir. 1972)	19
U.S. Gov't Exhibit # 7	19
P. Supp. Appx. 17 and 18	19
P. Supp. Appx. 12	20
Websters New World, Pocket Dict. 4 th Edition (Wiley Publishing Inc. 2000)	20
JACKSON v. Virginia, 443 U.S. 307, 319 (1979)	20
U.S. v. Syme . . . 276 F.3d, Id. at 157	20
Re Winship (1970), 397 U.S. at 363 [5], 364 and 371	21, 22

The Conclusion

Thomas Paine "Rights of MAN", pg. 147 (Wordsworth Edition Limited 1996)	24
Walling v. Brown, 204 U.S. 320	24
Plant v. Spendthrift Farm, Inc. 514 U.S. 211 (1995)	24
P. Supp. Appx. 19 - 22	25
Cohen v. Virginia, 6 Wheat (19 U.S.) 264, 404 (1821)	25
Rule 60 (B)(4)	26
18 § 3731	26

Pro Se Litigant

Under 3rd Circuit precedent, a Pro Se Petitioner's pleadings should liberally construed to do substantial justice. U.S. v. GARTH, 188 F.3d at 108 (3rd Cir. 1999). Pro Se Litigants Allegations are held to less stringent standards than formal pleadings drafted by lawyers. HAYNES v. KERNER, 404 U.S. 520-21 (1972), and no matter how in-artfully pleaded, ARE sufficient to call for the opportunity to offer supporting evidence. KERNER, at 521.

Note To The Court

Then out the Petitioners motion he uses a lot of civil rulings but civil rulings have applicability in criminal cases too, as well. See e.g. Stetson v. U.S. (1996), 516 U.S. at 194-95.

In fact the U.S. Supreme Ct. held in U.S. v. LANIER, when discussing the validity of 18 § 241 and 242, that fact that one has a civil and the other a criminal role is of no significance; [both serve the same objective] ... (the rest omitted) LANIER, 520 U.S. at 270. The same can be said of Art. III § 2 standing. Whether the federal courts are applying it to civil or fed. criminal jurisdiction. It serves the same objective. The U.S. District Courts jurisdiction.

THE PETITIONERS LACK OF
STATUTORY JURISDICTION CLAIMS

Q: What makes Rule 60 (B) (4) applicable the petitioners motion?! Enabling the U.S. District Court to properly entertain the motion under prevailing 3rd Cir. and U.S. Supreme Ct. law?!

A: When a judgement is void. It is "one which from its inception was a complete nullity and without legal effect." Raymark Indus Inc. v. Lai, 973 F.2d 1125, 1132 (3rd Cir. 1992). Therefore a judgement that is void is subject to ^{relief under} ~~Rule 60(B)(4)~~ Rule 60 (B) (4) if the court that rendered it. [Lacked jurisdiction of the subject matter or the parties or entered a decree which is not granted to it by law.] Marshall v. Bd. of Education, 575 F.2d 1d at 422 (3d Cir. 1978).

Lack of Jurisdiction Pursuant to 18 § 2113 (f)

Q: Why should the District Court dismiss Mr. London's (3) count indictment under Rule 60 (B) (4) for lack of statutory jurisdiction?!

A: (1) The Petitioner received a letter from Northwest Savings Bank (the victim bank) Regional Operations Officer, Michael R. Carlini,

in which he states as follow:

DEAR MR. LUNDEN (SIC),

This is in reply to your letter dated Nov. 6th, 2006. [There was no private ^{INSURER} who insured the robbery of our office at 5624 Peach St. Erie, PA. 16509 on Dec. 2nd, 2000.] (the rest omitted). See Petitioners Supplemental Appendix 2.

(2) The funds or an account in a bank, doesn't always have to be segregated in order to be deposits not recognizable under 12 U.S.C. § 1813(c) (what defines deposits insured by F.D.I.C. coverage). See e.g. in Betz v. F.D.I.C., 99 F.3d at 905 (9th Cir. 1996). The deposits robbed from Northwest Savings Bank were not deposits recognizable under 12 U.S.C. § 1813 (c). Therefore the deposits were not insured by the F.D.I.C. as to give the U.S. District Court for Erie, PA. statutory jurisdiction to try, convict and sentence the petitioner in U.S. v. London 01-01 (ERIE), pursuant to 18 § 2113 (a).

(3) The F.D.I.C. has the authority to write rules and regulations. And in doing so the agency is "making law" like a legislature.

Such laws being referred to as quasi-legislation. See Legal Research and Writing by William P. Statsky (5th Edition) pg. 235-36. Giving the agency the authority to interpret the statutes and regulations that govern it. And to resolve disputes that arise over applications of such laws.

This is known as quasi-judicial power. Legal Research, id. at 235-36.

These powers granted to the F.D.I.C. is supported by Congressional Acts and precedent-ial law. The term "deposit" of deposit insurance is defined by the ~~board of~~ ^{board of} directors [of the F.D.I.C.] See § 101, Banking Act of 1935, ch. 614, 49 Stat. 684, 685-86. Those current regulations remain still in force today. See F.D.I.C. v. Phila. Gear. Corp. 476 U.S. at 437.

And when Congress fails to revise or repeal an agency's interpretation, is persuasive enough evidence that the interpretation is the one intended by Congress. F.D.I.C. v. Phila. at 438. In fact in the 1960 revision of the Act.

The Congress specifically stated that, "The amended definition (of 12 USC 1813(2) defining deposits insured) would include the present statutory ~~and~~ definition of deposits [and the definitions of deposits in the rules and

regulations of the F.D.I.C. See H.R. Rep. No. 1827, 86th CONGRESS, 2d. Sess. 10 (1960) (same)

And it was under these circumstances, that the U.S. Supreme Ct. ruled, "... that a obvious great deal of deference has to be given to the F.D.I.C.'s interpretation of what the regulations do or do not include within their definition of deposits." F.D.I.C. v. Phila, at 438.

The deposits ~~robbed~~ from North West Savings Bank in Erie, P.A. on Dec. 2nd, 2000. were not recognizable deposits under F.D.I.C. insurance pursuant to 12 U.S.C. § 1813 (1); F.D.I.C. v. Phila, at 438. See also P. Supp. Appx. 3. Therefore the U.S. District Court lacked jurisdiction under 18 § 2113 (f) to try the petitioner.

Q: Why has all past previous rulings by U.S. Courts of Appeals and U.S. District Courts missed construe the reading of the statute of 18 § 2113 (f), which reads "... deposits of which were then insured by the F.D.I.C. ... " ?!

A: The rule in ascertaining the meaning of a statutory provision. We are not only instructed to look at the particular

statutory language but the design of the statute as a whole and to its object and policy." U.S. v. Sanders, 165 F.3d at 251 (3d Cir. 1999) (McLaughlin opinion). Its object and policy is under the Necessary and Proper Clause, "almost the entirety of the fed. criminal justice system is built upon the Necessary and Proper Clause foundation." U.S. v. Tyler, 281 F.3d at 93 n.9 (3d Cir. 2002).

So 18 § 2113(f) as far as mere robbery was UN-Necessary and Proper: For the State of P.A. has policed the crime of robbery before the U.S. Const. even existed. See P. Supp. Appx. 4, 5, 6, 7, and has reserved the right to solely and exclusively try criminals in its jurisdiction for the commission of any crime of robbery. See P. Supp. Appx. 8, 9, 10. (PA. Const. 1776). Which is why Congress enacted in the former language of 12 U.S.C. 588d which related to bank robbery and read, "Jurisdiction over any offense defined by 588 b and 588 c of this title shall not be reserved exclusively to courts of the U.S." which was only later on omitted as to be more adequately covered by 18 § 3231. See the History; Ancillary Laws and Directives

of 18 § 323. 18 § 323 reading in part [No-thing in this title shall be held to take away or impair the jurisdiction of the several States and the laws thereof.] See P.A.s (A Several State) laws thereof. See P. Supp. Appx. 4, 5, 6, 7, 8, 9, 10.

Furthermore if Congress wanted the U.S. District Court to have jurisdiction over bank robbery cases, that did not drive a bank in to insolvency, which the F.D.I.C. insurance covers those deposits. Congress could have provided criminal insurance coverage. Which is also sponsored by the Fed. Gov't just like F.D.I.C. coverage. Criminal insurance - Type of insurance which protects insured from losses due to criminal acts against insured such as burglary etc. Such insurance is sponsored by the Fed. Gov't. for residents of certain high crime localities. Blacks Law Dict. 6th Edition pg. 803

This means that Congress power endorsed in 18 § 2113 (f) was not ^{to} surpass the insolvency or bankruptcy via criminal acts.

So, A reasonable doubt persist about a statutes intended scope even after resort to " the legislature history, language and structure and motivating policy of the

statute, "Sanders at 251 (McLaughlin opinion). So the rule of lenity must apply and the Statute is to be narrowly construed. Id.

It is the 3rd Circuit precedent to read indictments in a common sense manner. U.S. v. Lee, 359 F.3d 194, 209 (3d Cir. 2004), Reading "... the deposits of which were then insured by the FIDIC. ... " in a common sense ~~with~~ manner, in reflection. ~~to~~ to the petitioners previous facts of law and congressional policy. presented in the motion herein. It has clearly been shown that the U.S. District Court in the case of U.S. v. London, 01-01 (Erie) lacked statutory jurisdiction under 18 § 2113(f).

Lack Of Art. III § 2 Jurisdiction

Q: Why did the U.S. District Court lack Art. III § 2 jurisdiction, making the Petitioners judgement void pursuant to Rule 60(B)(4)?!

A: In order for the U.S. District Court to exercise its jurisdiction it must be a case or controversy. An the plaintiff (the U.S. Gov't) must demonstrate that he

has suffered or is threatened with an actual injury traceable to the petitioner. That can be redressed by a favorable decision by the district court. Okereke v. U.S., 307 F.3d at 121 n.4 (3d Cir. 2002).

The U.S. District Court lacked standing to hear the case. Because the U.S. Gov't hadn't or couldn't meet the [irreducible] requirements, which contains (3) prongs: (1) injury in fact to the plaintiff (U.S. Gov't); (2) causation of that injury by the Petitioner's complained of conduct; and (3) a likelihood that the request relief will address that injury. Lujan v. Def. of Wildlife, 504 U.S. 555, 560. The F.D.I.C. and the U.S. Gov't failing on all three.

To cover the first prong. There was no injury in fact to the U.S. Gov't or the F.D.I.C. The injury in fact was done to Northwest Savings Bank. See P. Supp. Appx. 2. Also a case or controversy based on deterring a Petitioner from committing a crime or a future crime is insufficient to make out an Art. III § 2 claim. Because it is an area of speculation and conjecture. See e.g. O'Shea v. Littleton,

38 Lea 2d at 684. An the F.D.I.C. via F.O.I.A. has admitted the following to the petitioner:

" The F.D.I.C. does not bring criminal charges against no one and is therefore not a criminal law enforcement agency."

"Further [federal prosecutors in bank robbery cases does not represent the F.D.I.C.]."

" We would not normally have provided any testimony in a criminal proceeding. As we are not a party to such a proceeding."

See P.Supp. Appx. 3, 12, 13. An when the F.D.I.C. is not acting in its role as insurer for the fed gov't, there is no federal interest. See e.g. Atherton v. F.D.I.C., (1997) 136 Lea 2d at 668. " In sum, we can find no significant conflict with, or threat to, a federal interest." Atherton, at 669.

This proves that the (3) prongs applies to Northwest Savings Bank not the F.D.I.C. and the U.S. Gov't." This Court held that an Art. III case or controversy had not arisen because "[no] defendant had wronged the plaintiff or threatened to do so." Willing v. Chicago And. Assoc., 277 U.S. Id. at 288. The U.S. District

Court also lacks Art. III § 2 jurisdiction when a claim is immaterial, wholly insubstantial and frivolous, [or otherwise so devoid of merit as not to involve a federal controversy] (think *F.D.I.C. v. Atherton*, *supra*), then the Court must dismiss the claims for lack of subject matter jurisdiction. See e.g., *Onyiah Indian Nat. of N.Y. v. County of Onyiah*, 414 U.S. 661, 666. Therefore these matters. The U.S. District Court lacked Art. III § 2 jurisdiction, ~~rendering~~ nullifying its sentencing and conviction of the petitioner void pursuant to Rule 60 (B)(4).

Lack Of Statutory Jurisdiction under 18§3231

Q: Why did the U.S. District Court lack statutory jurisdiction under 18§3231, making the petitioners conviction and sentence void under Rule 60 (B)(4)?

A: 18§3231 which gives the U.S. District Court jurisdiction over criminal cases. Read as follows: Fed. courts shall have jurisdiction exclusively of the State courts, of all offenses against the laws

of the U.S. (but it also says) [Nothing in this title shall be held to take away or impair the jurisdiction of the several States under the laws thereof.] Therefore the U.S. District Courts proceedings over the petitioner impaired and took away the jurisdiction of the State of P.A. SEE P. Supp. Appx. 4, 5, 6, 7, 8, 9, 10. Meaning the U.S. District Court lacked statutory jurisdiction over the petitioners case pursuant to 18 § 3231. Making his conviction and sentence void under Rule 60(B)(4).

Violations Of
Due Process Claims

Q: What makes Rule 60(B)(4) applicable to the petitioners motion?! Enabling the U.S. District Court to properly entertain the motion under prevailing and precedential 3rd Cir. and U.S. Supreme Ct. law as far as the petitioners claims (usurpation of power, insufficiency of evidence on insurance element at trial and 10th Amend. violation) all such claims resulting ^{in a} Due Process violation?!

A: A judgement can be voided on (2) grounds.
 (1) If the rendered court lacked subject matter jurisdiction or (2) [if it acted in a manner inconsistent with due process of law]. Constr. Drilling, Inc. v. Chusid, 131 Fed. Appx. 366, 372 (3d Cir. 2005); Wendt v. Leonard, 431 F.3d 460, 412 (4th Cir. 2005); N.Y. Life Ins. Co. v. Brown, 84 F.3d 137, 143 (5th Cir. 1996); and Margoles v. Johns, 660 F.2d 291, 295 (7th Cir. 1981).

Q: Why was the U.S. District Courts jurisdiction under 1853231 or 1852113(f) OR ANY OTHER AUTHORITY the District Courts CLAIMS it could've proceeded under. A CLEAR USURPATION of its GRANTED FEDERAL POWER in violation of the petitioners 10th Amend. rights and the DUE PROCESS CLAUSE?

A: BECAUSE the State of P.A. has been policing the crime of robbery before the U.S. Const. EVEN EXISTED. SEE P. Supp. Appx. 6 AND 7. AN when P.A. adopted its Constitution in 1776. Those same laws were reformed or amended, NOT ABOLISHED. P. Supp. Appx. 4, 5, 6, AND 10. AN in the same constitution the State of P.A. RESERVED the right to police its OWN CITIZENS or those that commit crimes in its state. P. Supp. Appx. 8 AND 9. All laws and rights RESERVED to the State of P.A., mentioned up ABOVE, made to be CONSTANTLY kept in force... AN ought to NEVER be violated on ANY pretense what SO EVER. P. Supp. Appx. 10.

Therefore the power to police robbery or any crime for that matter in the State of P.A. by the Fed. Gov't was

Not delegated to the U.S. Gov't under the enactment of the U.S. Constitution in 1791.

Leaving the petitioners conviction and sentence void under Rule 60(B)(4) for violation of the Due Process Clause and clear usurpation of the federal powers granted to the District Court.

BECAUSE each State in the Union is SOVEREIGN AS TO ALL the powers RESERVED. AN it must NECESSARILY be so because the U.S. have NO claim to authority but such AS the states SURRENDERED to them. U.S. v. Lopez (1995) 514 U.S. Id. at 584 quoting Chief Justice Marshall v. ~~Georgia~~ Georgia, 1 L.Ed 440 (1793) (Iredell, J.) AN furthermore the Bill of Rights and the procedures that it guarantees ARE NOT to be ABROGATED because the guilty may ESCAPE prosecution OR for ANY other expediant REASON. Kennedy v. Mendoza-Martinez, 9 L.Ed 2d 644 (1963).

● Violation Of Due Process / Void Statute / Not Necessary And Proper

Q: What makes 18 § 2113(f) a violation of Due Process and void as a statute?!

Justifying Rule 60(B)(4) relief?!

A: The Courts role is not in judging the wisdom or fairness of Congressional policy choice but RATHER constitutionality. DESOUZA V. RENO, 190 F.3d AT 184-85 (3d Cir. 1999).

AN if a law is UN-CONSTITUTIONAL AND void, [then it affects the whole foundation of the proceeding] and the trial court could not have acquired jurisdiction of the ~~causes~~ causes. EX PARTE SIEBOLD, 100 U.S. 371 (1879).

Congressional Authority to create criminal law is derived from the NECESSARY AND PROPER CLAUSE of the U.S. Const. for effecting the objects of gov't. U.S. V. TYLER, 281 F.3d AT 92 (3d Cir. 2002). AN the provisions of 18 § 2113(f) when it comes to the State of P.A. is UN-NECESSARY AND UN-PROPER. For the State of P.A. has reserved the sole exclusive right to police its own citizens for the crime of robbery. A right that is to NEVER be violated. P. Supp. Appx. 69, and 10. A state jurisdiction that is exempt

from being taken away or impaired pursuant to 18 § 3231 and the 10th Amend. of the U.S. Const.

Finally 18 § 2113(f) is UN-NECESSARY and PROPER because the F.D.I.C. has no object or interest over the deposits that were robbed from Northwest Savings Bank on Dec. 2, 2000, P. Supp. Appx. 3, 12 and 13. And when the F.D.I.C. is not operating in its capacity or role as an insurer for the Fed. Gov't, then there is no fed. interest at hand. ATHERTON v. F.D.I.C., supra. Not to mention the U.S. Supreme Ct. in U.S. v. Lopez, 514 U.S. Id. at 567 ruled, "The Constitution we said, [does not tolerate reasoning that would • CONVERT authority under the Commerce Clause to a general police of the sort retained by the states.] Id. at 567."

Therefore 18 § 2113(f) as it applies to the State of P.A. is UN-constitutional and void for lack of NECESSARINESS and PROPERNESS because Congress has failed to show ANY significant effect of what the violation of 18 § 2113(f) would have on the objects of Fed. Gov't. Tyler, supra.

Violation Of Due Process / In-sufficiency of Evidence on Jurisdictional Element

Q: Why does the in-sufficiency of evidence on the jurisdictional element at trial violate the Due Process Clause?!. Voiding the petitioners conviction and sentence under Rule 60 (B)(4)?!

A: At the Petitioners trial the Bank Manager from Northwest Savings Bank, Lawrence D. Neizmek, testified that the bank was F.D.I.C. insured on the date of the robbery. P.Supp. Appx. 14-16. Then the U.S. Gov't submitted in to evidence a ante-dated F.D.I.C. certificate in support of the testimony. P.Supp. Appx. 15 and 16.

In U.S. v. McIntosh, 463 F.2d 250 (3d Cir. 1972), the 3rd Circuit held that un-contradicted testimony by a Bank Manager is sufficient enough to establish the bank is F.D.I.C. insured. But in this case, the bank managers testimony was contradicted by U.S. Gov't Exhibit # 7, which was either a 11 or 61 years old at the time of the petitioners trial. SEE Gov't Exhibit # 7 and P.Supp. Appx. 17 and 18. Because

there only issued to banks upon their admission to the F.D.I.C. (P. Supp. Appx. 12) and only as a courtesy. (P. Supp. Appx. 12). A courtesy meaning "polite behavior or act - free; complimentary." Websters New World, Pocket Dict. 4th Edition (Wiley Publishing Inc. 2000). Not proof of insurance over a decade later.

Under JACKSON V. VIRGINIA, 443 U.S. 307, 319 (1979). There is only sufficient evidence to support a conviction if viewing the evidence in a light most favorable to the prosecution; any rational trier of fact could have found the element beyond a reasonable doubt.

In U.S. v. Syme, "LEASER" the U.S. Gov't [expert medical witness], testified that, he received "the medical records for Graham for the dates of service. JAN. 20th, 1994 and MAR. 17th, 1994." And that these records proved that "Grahams" (no pun intended) the 80 yr. old patient. 'Aug. 3rd, 1994 ambulance trip was UNNECESSARY. U.S. v. Syme, 276 F.3d Id. at 157. More importantly though. Was that the Court would go on to rule that because the U.S. gov't could not put forth any evidence more current than the 4 month

period then the date at question.... No reasonable jury could find beyond a reasonable doubt that Grahams Aug. 3rd, 1994 Ambulance trip was not medically necessary. Id. at 157.

Comparison. In U.S. v. London Case No. 01-01 (ERIE), Neizmek (the U.S. gov't sole witness as to the F.D.I.C. element) relied on a record that was either 11 or 61 yrs. old (See Gov't exhibit #7 and P. Supp. Appx. 17 and 18), A certificate that is only a courtesy upon the banks admission in to the F.D.I.C. (P. Supp. Appx 12). And this compared to the record in U.S. v. Syme is extraordinary. Therefore the evidence relied on by the jury was only a preponderance and insufficient to convict beyond a reasonable doubt. "A person accused of a crime... would be at a severe disadvantage, [a disadvantage amounting to a lack of fundamental fairness], if he could be adjudged guilty and imprisoned for years on the same strength of the same evidence as would suffice in a civil case. Re Winship (1970), 397 U.S. 363 [5].

The reasonable doubt standard is indispensable, for it "impresses on the trier of fact

the necessity of reaching a subjective certitude of facts in issue, Winship At 364. While on the otherhand, Preponderance of evidence standards. Simply requires the trier of fact "to believe that the existence of a fact is more probable than its non-existence before..." Winship, At 371. Which is exactly the case here. There's no way that "a rational trier of fact" could come to a certitude of facts based off of a 11 or 61 yr. old courtesy certificate. At best with Neizmek's testimony being contradicted by the outdated F.D.I.C. certificate. The jury's conclusion could only be based off preponderance. For the evidence presented by the U.S. govt only raised a probability that the bank was insured on the date of the robbery, Dec. 2, 2000. Therefore the petitioners conviction and sentence was in violation of the Due Process Clause, calling for Rule 60(B)(4) relief.

THE CONCLUSION

The Petitioner's Conclusion To His Rule 60(B)(4)
Motion

Q: Why must the U.S. District Court now grant the petitioner Rule 60(B)(4) relief?!
Releasing him immediately, from federal custody, regardless of the U.S. District Courts social and political windfall?!

A: ".... A Constitution is a thing antecedent to the Govt, and always distinct there from."
Thomas Paine "Rights of Man", pg. 147 (Wordsworth Edition Limited 1996),

And it is the matter of the judiciary to determine whether the acts of the other two depts are in harmony with the fundamental law. Walling v. Brown, 204 U.S. 320. But nevertheless. The Court presumes that Congress expects its statutes [to be read in conformity with the Courts precedents.] Plant v. Spendthrift Farm, Inc. 514 U.S. 211 (1995)

The ethics of the Fed. Gov't has come in to question and under suspicion

AS A whole. See P. Supp. Appx. 19, Including the ethics of the U.S. Judges. P. Supp. Appx. 20, 21 and 22.

To accept the prosecutions contentions would propell the District Court in to TREASON against the U.S. Const. "We [judges] have no more right to decline the exercise of jurisdiction which is given, [than to usurp that which is not given.] The one or the other would be TREASON to the Constitution. Cohen v. Virginia, 6 Wheat (19 U.S.) 264, 404 (1821).

AN this blatant TREASON by the District Court via usurpation of jurisdiction is quite the cause for the ART. III S 2 probe by ANONYMOUS F.B.I. AGENTS AND Dept. of Justice prosecutors AND radical defense Attys. NATIONWIDE. Further fueled by ONE TEXAN defense Atty. Allegations of Title 18 NEVER even being signed in to bill by the Senate OR Congress.

IN which the public and the media has taken note of the U.S. Gov't CURRENT distasteful governance, producing

ARTICLES such as these, "IS OUR FAITH
IN GOV'T DYING?", "RESPECT THE CONSTITUTION",
AND "UMPIRING THE CONSTITUTION". See P. Supp.
Appx. 23, 24 and 25.

With that said, The petitioner
NOW motions the U.S. District Court to VACATE
the petitioners conviction, judgement and sentence.
Dismissing all (3) counts of the indictment,
RELEASING the petitioner immediately from
federal custody. For the U.S. District Court
has entered a decree which is not within
the powers granted to it by law. MARSHALL v.
Bd. of Educ., supra. Making the petitioners
conviction, judgement and sentence void, one
which from its inception was a complete
nullity and without legal effect. RAGMARK
INDUS INC. v. LAI, supra. Acting in a
MANNER inconsistent with due-process of
LAW. CONSTR. DRILLING, INC. v. Chusid, supra.
WARRANTING the petitioner relief under the
Fed. R. of Civ. Proc. Rule 60(B)(4).

Futhermore the petitioner motions
the District Court to deny the U.S. Gov't
A C.O.A. pursuant to 1853731.

With Justice
in mind,
Pro Se litigant
C. C. John



NORTHWEST SAVINGS BANK

800 STATE STREET - P. O. BOX 3308 - ERIE, PENNSYLVANIA 16508

[814] 461-6990

FAX: [814] 461-6966

November 20, 2006

Aaron Lunden #37992-060
Allenwood (USP)
P.O. Box 3000
White Deer, PA 17887

Dear Mr. Lunden:

This is in reply to your letter of November 6, 2006. There was no private insurer who insured the robbery of our Office at 5624 Peach St. Erie, PA 16509, on December 2, 2000. Restitution is owed directly to Northwest Savings Bank, 800 State St. Erie, PA 16501, attention: Michael R. Carlin.

Sincerely,

Michael R. Carlin
Region Operations Officer

CC: D. Engle

P. Supp. Appx. 3
2

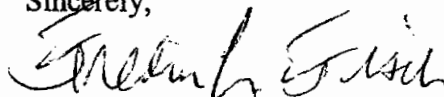
address: Ms. Marie A. O'Rourke, Assistant Director, FOIA/Privacy Unit, Executive Office for United States Attorneys, Department of Justice, Room 7300, 600 E Street, N.W., Washington, D. C. 20530-0001.

FDIC insurance covers the deposits of a bank in the event of the insolvency and closure of the bank, only. FDIC insurance does not cover an institution for losses incurred as a result of theft or robbery in any instance. Such insurance from theft, robbery or embezzlement is obtained under a bond or through a private insurance carrier chosen by each bank, which carrier is not an entity of the federal government. Information on a bank's blanket bond coverage, or its private insurance carrier who provides coverage to the bank in the event of theft, robbery or embezzlement, are records of the bank, and not the FDIC. We enclose a pamphlet entitled "Insuring Your Deposit," which provides further additional information about the FDIC and its role in insuring bank deposits.

This completes the processing of your request. As noted earlier, you have made one previous request to the FDIC for insurance information on Northwest Savings Bank, and a portion of that request also sought a copy of the bank's FDIC insurance certificate - FDIC log # 05-0303. We responded to that request by letter dated May 20, 2005, and told you that we had expended the 2 free hours of search time to which you were entitled as an Individual requester under FOIA (see our FOIA regulation and fee schedule, which we enclose.) We also advised you that any future requests from you on the same subject matter would be subject to the assessment of fees, and should include your agreement to pay fees.

The FOIA does not require an agency to entertain requests for information twice, nor to process requests that do not comply with the FOIA's fee provisions. As a courtesy to you, this one time, I have processed your second letter and have waived the associated fees. I will not respond to further requests from you seeking a copy of the FDIC insurance certificate for Northwest Savings Bank. Also, you may file a new FOIA request at any time, but you need to comply with the FDIC's published FOIA regulations, including those pertaining to fees.

Sincerely,



Fredrick L. Fisch
Supervisory Counsel
FOIA/Privacy Act Group

Enclosures

F-2



Pennsylvania
Historical & Museum
Commission

Bureau of Archives and History, State Archives Division
350 North St., Harrisburg, PA 17120-0090

June 15, 2007

Mr. Aaron C. London
Allenwood (USP)
P. O. Box 3000
White Deer, PA 17887

Dear Mr. London:

The statute covering robbery at the time when the Pennsylvania Province (a colony of Great Britain) ceased to function and the Constitution of 1776 was proclaimed (making Pennsylvania a state and commonwealth), was the act of May 31, 1718, which defined the crime as follows:

"That if any person or persons shall commit sodomy or buggery, or rape or robbery, which robbery is done by assaulting another on or near the highway, putting him in fear and taking from his person money or other goods, to any value whatsoever, he or they so offending, or committing any of the said crimes within this province, their counsellors, aiders, comforters and abettors, being convicted thereof as above said, shall suffer as felons, according to the tenor, direction, form and effect of the several statutes in such cases respectively made and provided in Great Britain, any act or law of this province to the contrary in anywise notwithstanding."

And a further section of the statute imposed the death penalty if the robber intentionally maimed or disabled the person robbed.

This law was carried forward, after the 1776 Constitution was proclaimed, by the act of March 8, 1780, which was a general affirmation of most of the laws in operation in Provincial Pennsylvania in 1767.

The first change in the law of robbery after the 1776 constitution came with the act of March 8, 1780. A print-out (from the Legislative Reference Bureau's web site presentation of the *Statutes at Large*) of the pertinent section of that law is enclosed. As you can see, it removed "at or near the highway" from the definition of felonious robbery.

A book by historian G. S. Rowe tells us that the first formal state Oyer and Terminer court took place in Lancaster on April 7, 1778. The State Archives does not have full records of all criminal trials that may have occurred there (or, for that matter, any other criminal trials under state jurisdiction from the date of the constitution, September 28, 1776 to April 7, 1778). Record Group 33 (records of the Pennsylvania Supreme Court) has three volumes of dockets and appearances before the supreme court for the years spanning the period from the proclamation of the constitution to 1780. These are available for research. However, a brief review of the files in the several boxes in which these are contained revealed 1778 records only for Philadelphia, not for Lancaster. All the other dockets and appearances were no earlier than 1779. The records for Philadelphia cases in 1778 were entirely trials for treason, for aiding and assisting the enemy, or for other war related matters. One indictment included a burglary charge, but the incident involved cooperation with the British. These documents are available for research here at the State Archives.

Full text presentations of all Pennsylvania's constitutions can be viewed and copied from the web site of the Duquesne University Law School. The address there is http://www.paconstitution.duq.edu/PAC_CC_1873.html.

The address of the Philadelphia City Archives is 3101 Market Street, First Floor, and Philadelphia, PA 19104.

Sincerely,

A handwritten signature in black ink that reads "Louis Waddell". The signature is written in a cursive, flowing style.

Louis Waddell
Associate Historian

CC: JRS
CB

[Act of 8 March 1780]

CHAPTER DCCOLXXXIX.

AN ACT FOR THE AMENDMENT OF THE LAW RELATIVE TO THE PUNISHMENT OF TREASONS, ROBBERIES, MISPRISIONS OF TREASON AND OTHER OFFENSES.

(Section I, P. L.) Whereas in and by the act of assembly, entitled "An act for the advancement of justice and the more certain administration thereof,"¹ made and passed the thirty-first day of May, in the year of our Lord one thousand seven hundred and eighteen, the punishment of death is inflicted in the case of robbery upon such only as commit the same on or near the highway, so that no adequate provision seems to have been made for punishing the most atrocious robberies if the same be committed elsewhere:

[Section I.] (Section II, P. L.) Be it therefore enacted and it is hereby enacted by the Representatives of the Freemen of the Commonwealth of Pennsylvania in General Assembly met, and by the authority of the same, That from and after the passing of this act, if any person or persons shall commit robbery, which robbery is done by assaulting another, putting him in fear and taking from his person money or other goods to any value whatsoever, whether the same robbery be committed on or near the highway or elsewhere in any place or places whatsoever within this commonwealth, he or they so offending his or their counsellors, aiders, comforters and abettors, being thereof duly convicted or attainted, or being indicted and standing mute, or challenging peremptorily above the number of twenty persons returned to serve of the jury, shall suffer as felons without benefit of clergy, in like manner as by the laws of this commonwealth is provided in the case of robbers on or near the highway.

(Section III, P. L.) And whereas the forfeiture of goods and chattels, in the case of manslaughter, is rarely exacted, and

¹ Chapter 236.



Pennsylvania
Historical & Museum
Commission

Bureau of Archives and History, State Archives Division
350 North St., Harrisburg, PA 17120-0090

January 18, 2007

Mr. Aaron London #37992-060
Allenwood (USP)
P. O. Box 3000
White Deer, PA 17887

Dear Mr. London:

Your unsigned letter of January 15, 2007, to the Pennsylvania State Archives was referred by Mr. Jonathan Stayer, Chief of the Reference Section, to my desk for response. I am an associate historian on the staff of the Section.

The first Pennsylvania enactment to bear the title "constitution" was the Constitution of 1776, which came into being when a constitutional convention completed it on September 28, 1776, although the machinery of government it established is usually dated from the beginning of its first General Assembly, in early 1777. There was no approval process involving the Pennsylvania voting population. The State Archives has one of the manuscript copies of the Constitution, and it can be seen online at our Web site link:

<http://www.doheritage.state.pa.us/documents/constitutiontrans.asp>. As I am not certain the internet is available to you, I enclose a photocopy of a printed version from the reliable *Federal and State Constitutions, Colonial Charters, and other Organic Laws* . . . (1905).

Considering the dictionary definition of "constitution," one might say there were several pre-1776 Pennsylvania enactments that were constitutions, but these did not include the word "constitution" in their titles. The best known of these was the charter from King Charles II of 1681, but there were others including the Charter of Liberties of 1701. Only with the 1776 Constitution do we get a comprehensive Bill of Rights.

Pennsylvania has never had a "bank robbery" statute. Bank robberies have only been distinguished from other types of robbery with the passage of a federal statute in 1934. On the Villanova Law School Web site I found the text of a US Supreme Court case entitled *USA v. Anthony Cornish* (1996) in which the Court's opinion goes into the relationship between Pennsylvania's general robbery statutes and the federal bank robbery statute. <http://VLS.law.vill.edu>.

The earliest enactment of a statute covering robbery I would say was the Duke of York's Laws. These were created for all the colonial lands the Duke governed in North America in 1664, but were not made applicable to the Delaware valley until 1676. In other words, they became the law when England took control, in 1676, of part of the area that received, in 1681, the name Pennsylvania. I enclose a photocopy of page 80 of Gail McKnight Beckman Esq.'s *The Statutes at Large of Pennsylvania* . . . Volume I (Vantage Press, 1976), which includes the text of the robbery provisions. The version more familiar in Pennsylvania, the 1879 Charter to William Penn and Laws of the Province of Pennsylvania, Passed between the Years 1682 and 1700, Preceded by the Duke of York's Laws in Force from the Year 1676 to the Year 1682, constructed by John Blair Linn, is not available in our library, but it is my understanding that Attorney Beckman constructed the version in her book from a manuscript copy approved by the Duke of York himself and now on file at the British Public Record Office. The Duke of York's laws are not among the public records of the Pennsylvania State Archives.

The cost of these photocopies has been waived. The Law/Government Publications Reading Room of the Bureau of State Library, Pennsylvania Department of Education, may have better resources to answer inquiries you may have in the future.

P. Supp. Appx. 8.

The Pennsylvania State Archives

Doc Heritage Transcripts

Constitution of Pennsylvania - 1776

WHEREAS all government ought to be instituted and supported for the security and protection of the community as such, and to enable the individuals who compose it to enjoy their natural rights, and the other blessings which the Author of existence has bestowed upon man; and whenever these great ends of government are not obtained, the people have a right, by common consent to change it, and take such measures as to them may appear necessary to promote their safety and happiness. AND WHEREAS the inhabitants of this commonwealth have in consideration of protection only, heretofore acknowledged allegiance to the king of Great Britain ; and the said king has not only withdrawn that protection, but commenced, and still continues to carry on, with unabated vengeance, a most cruel and unjust war against them, employing therein, not only the troops of Great Britain, but foreign mercenaries, savages and slaves, for the avowed purpose of reducing them to a total and abject submission to the despotic domination of the British parliament, with many other acts of tyranny, (more fully set forth in the declaration of Congress) whereby all allegiance and fealty to the said king and his successors, are dissolved and at an end, and all power and authority derived from him ceased in these colonies. AND WHEREAS it is absolutely necessary for the welfare and safety of the inhabitants of said colonies, that they be henceforth free and independent States, and that just, permanent, and proper forms of government exist in every part of them, derived from and founded on the authority of the people only, agreeable to the directions of the honourable American Congress. We, the representatives of the freemen of Pennsylvania, in general convention met, for the express purpose of framing such a government, confessing the goodness of the great Governor of the universe (who alone knows to what degree of earthly happiness mankind may attain, by perfecting the arts of government) in permitting the people of this State, by common consent, and without violence, deliberately to form for themselves such just rules as they shall think best, for governing their future society; and being fully convinced, that it is our indispensable duty to establish such original principles of government, as will best promote the general happiness of the people of this State, and their posterity, and provide for future improvements, without partiality for, or prejudice against any particular class, sect, or denomination of men whatever, do, by virtue of the authority vested in us by our constituents, ordain, declare, and establish, the following Declaration of Rights and Frame of Government, to be the CONSTITUTION of this commonwealth, and to remain in force therein for ever, unaltered, except in such articles as shall hereafter on experience be found to require improvement, and which shall by the same authority of the people, fairly delegated as this frame of government directs, be amended or improved for the more effectual obtaining and securing the great end and design of all government, herein before mentioned.

A DECLARATION OF THE RIGHTS OF THE INHABITANTS OF THE COMMONWEALTH, OR STATE OF PENNSYLVANIA

- I. That all men are born equally free and independent, and have certain natural, inherent and inalienable rights, amongst which are, the enjoying and defending life and liberty, acquiring, possessing and protecting property, and pursuing and obtaining happiness and safety.
- II. That all men have a natural and unalienable right to worship Almighty God according to the dictates of their own consciences and understanding: And that no man ought or of right can be compelled to attend any religious worship, or erect or support any place of worship, or maintain any ministry, contrary to, or against, his own free will and consent: Nor can any man, who acknowledges the being of

P. Supp. Appx. 9

a God, be justly deprived or abridged of any civil right as a citizen, on account of his religious sentiments or peculiar mode of religious worship : And that no authority can or ought to be vested in, or assumed by any power whatever, that shall in any case interfere with, or in any manner controul, the right of conscience in the free exercise of religious worship.

III. That the people of this State have the sole, exclusive and inherent right of governing and regulating the internal police of the same.

IV. That all power being originally inherent in, and consequently derived from, the people; therefore all officers of government, whether legislative or executive, are their trustees' and servants, and at all times accountable to them.

V. That government is, or ought to be, instituted for the common benefit, protection and security of the people, nation or community; and not for the particular emolument or advantage of any single man, family, or sett of men, who are a part only of that community ; And that the community hath an indubitable, unalienable and, indefeasible right to reform, alter, or abolish government in such manner as shall be by that community judged most conducive to the public weal.

VI. That those who are employed in the legislative and executive business of the State, may be restrained from oppression, the people have a right, at such periods as they may think proper, to reduce their public officers to a private station, and supply the vacancies by certain and regular elections.

VII. That all elections ought to be free; and that. all free men having a sufficient evident, common interest with, and attachment to the community, have a right to elect officers, or to be elected into one.

VIII. That every member of society hath a right to be protected in the enjoyment of life, liberty and property, and therefore is bound to contribute his proportion towards the expense of that protection, and yield his personal service when necessary, or an equivalent thereto: But no part of a man's property can be justly taken from him, or applied to public uses, without his own consent, or that of his legal representatives: Nor can any man who is conscientiously scrupulous of bearing arms, be justly compelled thereto, if he will pay such equivalent, nor are the people bound by any laws, but such as they have in like manner assented to, for their common good.

IX. That in all prosecutions for criminal offences, a man hath a right to be heard by himself and his council, to demand the cause and nature of his accusation, to be confronted with the witnesses, to call for evidence in his favour, and a speedy public trial, by an impartial jury-of the country, without the unanimous consent of which jury he cannot be found guilty ; nor can he be compelled to give evidence against himself ; nor can any man be justly deprived of his liberty except by the laws of the land, or the judgment of his peers.

X. That the people have a right to hold themselves, their houses, papers, and possessions free from search and seizure, and therefore warrants without oaths or affirmations first made, affording a sufficient foundation for them, and whereby any officer or messenger may be commanded or required to search suspected places, or to seize any person or persons, his or their property, not particularly described, are contrary to that right, and ought not to be granted.

XI. That in controversies respecting property, and in suits between man and man, the parties have a right to trial by jury, which ought to be held sacred.

XII: That the people have a right to freedom of speech, and of writing, and publishing their sentiments;

I _____ do swear (or affirm) that I will be true and faithful to the commonwealth of Pennsylvania.:
And that I will not directly or indirectly do any act or thing prejudicial or injurious to the constitution or government thereof, as established by the convention.,

THE OATH OR AFFIRMATION OF OFFICE

I _____ do swear (or affirm) that I will faithfully execute the office of _____ for the _____ of _____ and will do equal right and justice to all men, to the best of my judgment and abilities, according to law.

SECT. 41. No public tax, custom or contribution shall be imposed upon, or paid by the people of this state, except by a law for that purpose: And before any law be made for raising it, the purpose for which any tax is to be raised ought to appear clearly to the legislature to be of more service to the community than the money would be, if not collected; which being well observed, taxes can never be burthens.

SECT. 42. Every foreigner of good character who comes to settle in this state, having first taken an oath or affirmation of allegiance to the same, may purchase, or by other just means acquire, hold, and transfer land or other real estate; and after one year's residence, shall be deemed a free denizen thereof, and entitled to all the rights of a natural born subject of this state, except that he shall not be capable of being elected a representative until after two years residence.

SECT. 43. The inhabitants of this state shall have liberty to fowl and hunt in seasonable times on the lands they hold, and on all other lands therein not inclosed ; and in like manner to fish in all boatable waters, and others not private property.

SECT. 44. A school or schools shall be established in each county by the legislature, for the convenient instruction of youth, with such salaries to the masters paid by the public, as may enable them to instruct youth at low prices: And all useful learning shall be duly encouraged and promoted in one or more universities.

SECT. 45. Laws for the encouragement of virtue, and prevention of vice and immorality, shall be made and constantly kept in force, and provision shall be made for their due execution : And all religious societies or bodies of men heretofore united or incorporated for the advancement of religion or learning, or for other pious and charitable purposes, shall be encouraged and protected in the enjoyment of the privileges, immunities and estates which they were accustomed to enjoy, or could of right have enjoyed, under the laws and former constitution of this state.

SECT. 46. The declaration of rights is hereby declared to be a part of the constitution of this commonwealth, and ought never to be violated on any pretence whatever.

SECT. 47. In order that the freedom of the commonwealth may be preserved inviolate forever, there shall be chosen by ballot by the freemen in each city and county respectively, on the second- Tuesday in October, in the year one thousand seven hundred and eighty-three, and on the second Tuesday in October, in every seventh year thereafter, two persons in each city and county of this state, to be called the COUNCIL OF CENSORS; who shall meet together on the second Monday of November next ensuing their election ; the majority of whom shall be a quorum in every case, except as to calling a convention, in which two-thirds of the whole number elected shall agree: And whose duty it shall be to enquire whether the constitution has been preserved inviolate in every part; and whether the legislative and executive branches of government have performed their duty as guardians of the people, or assumed to themselves, or exercised other or greater powers than they are intitled to by the constitution: They are also to enquire whether the public taxes have been justly laid and collected in all parts of this



Federal Deposit Insurance Corporation
550 17th St. NW Washington DC, 20429

Legal Division

Mr. Aaron London
Reg. #37992-060
P.O. Box 3000 (SHU)
White Deer, PA 17887

MAY 02 2006

FDIC Log # 06-0224

Dear Mr. London:

This will respond to your undated letter, received by our office on April 24, 2006, pursuant to the provisions of the Freedom of Information Act ("FOIA," 5 U.S.C. § 552). In your letter, you ask for 10 copies of FDIC certificate #28178 and/or copies of any FDIC certificate given to Northwest Savings Bank, Millcreek Square, Peach Street, Erie, Pennsylvania. You also state that no fee should be charged to you for the copies under Rule 16.11 (k)(1)(i)(ii). This marks your second request to the FDIC for information regarding Northwest Savings Bank, and specifically for a copy of the bank's FDIC certificate. Your previous request was logged in as FOIA 05-0303, and was answered by our letter dated May 20, 2005.

The provisions of Rule 16.11 (k)(1)(i)(ii) do not pertain to the processing of your request under the FOIA. Under the provisions of the FOIA, as an individual requester, you will receive 2 free hours of search time, and up to 100 free pages. Fees are not an issue in this case, however, as no billable fees have been incurred in the processing of this request.

The FDIC is an independent agency of the U.S. Government. It was established by Congress in 1933 to insure bank deposits, help maintain sound conditions in our banking system, and protect the nation's money supply in case of financial institution failure. See 12 U.S.C. § 1811 et seq., as amended.

Our records show that FDIC certificate #28178, Northwest Savings Bank, headquartered in Warren, Pennsylvania, became FDIC-insured on January 26, 1939, and remains insured to the present date. The branch of the bank that you are interested in, at Millcreek Square, Peach Street, Erie, Pennsylvania, is an open and operating, FDIC-insured branch of the main office in Warren, and has been open since June 30, 1989. Please see the enclosed print outs which show this information.

The FDIC issues certificates of insurance to banks upon their admission to the FDIC. They are issued as a courtesy only. These certificates are not required to be issued by law or regulation, and copies are not kept. Duplicate certificates are only made by the FDIC upon request by the institution or federal law enforcement authorities.

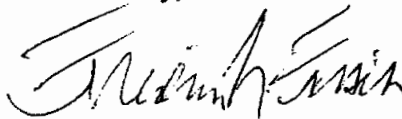
The FDIC does not bring criminal charges against anyone and is, therefore, not a criminal law enforcement agency. Further, federal prosecutors in bank robbery cases do not represent the FDIC. You should consult the Department of Justice with regard to any interest you have in records concerning criminal matters, such as those covered under the jurisdiction of the Federal Rules of Criminal Procedure. You may write to the Department of Justice at the following

Finally, the FDIC is not a criminal law enforcement agency and we do not file criminal complaints against individuals. We would not normally have provided any testimony in a criminal proceeding, as we are not a party to such a proceeding. If you have any questions concerning the jurisdiction of the Federal courts regarding your incarceration, you may wish to refer such issues to your attorney or the Federal Public Defender.

You may choose to submit a new FOIA request to the FDIC at any time. It must comply with our FOIA regulations and fee schedule (containing an agreement to pay), however, and you should not request records or information that has been previously requested and addressed. Remember, too, that the FOIA is not a forum to answer your questions, and that its purpose is to provide the public with agency records that shed light on government operations. It is not a replacement for civil or criminal discovery, nor is it intended as a substitute for post-conviction relief motions. As I have suggested to you, above, if you have questions concerning the jurisdiction of the Federal courts regarding your incarceration, you should refer such issues to your attorney or the Federal Public Defender.

This completes the processing of your request, as submitted. Thank you for your interest in the FDIC.

Sincerely,



Fredrick L. Fisch
Supervisory Counsel
FOIA/Privacy Act Group

Enclosure

P. Supp. Appx. 14

172

1 A. Yes.

2 Q. Had he given you the pager number so that if you recall
3 any details or had any concerns, you could contact him and talk
4 with him about this?

5 A. Yes, because the day we did talk, I was very nervous.

6 Q. But you're the one who called him, he didn't call you?

7 A. Right.

8 MR. PICCININI: That's all I have, your Honor.

9 THE COURT: Thank you, Ms. Renzi, you're excused.
10 Call your next witness.

11 MR. PICCININI: Your Honor, at this time I would
12 call Larry Neizmik.

13 MR. PATTON: Your Honor, I would move to admit
14 Defendant's Exhibit I, which was Northwest bank security
15 procedures that Ms. Renzi identified.

16 THE COURT: It's admitted.

17 MR. PICCININI: Sir, please come up here and be
18 sworn.

19 THE CLERK: Please raise your right hand.
20 Sir, would you state your name fully and spell it for the
21 record?

22 THE WITNESS: Lawrence D. Neizmik. L-a-w-r-e-n-c-e,
23 D., N-e-i-z-m-i-k.

24 LAWRENCE NEIZMIK, GOVERNMENT WITNESS, SWORN

25 DIRECT EXAMINATION

APPENDIX 408

P-1

P. Supp. Appx. 15

173

1 BY MR. PICCININI:

2 Q. Sir, please state your name for the jurors?

3 A. Lawrence D. Neizmik.

4 Q. Sir, if I can ask you at the outset to just move closer
5 to the microphone, sometimes the system cuts off. Keep your
6 voice up as much as possible so the furthest juror would be
7 able to hear you, thank you. Mr. Neizmik, how are you
8 employed?

9 A. My position is Millcreek District Manager for Northwest
10 Savings Bank.

11 Q. I'm going to draw your attention to December 2nd of the
12 year 2000, a bank robbery had occurred at the Northwest Savings
13 Bank on Peach Street near the Millcreek Plaza, near the
14 Millcreek Mall; do you recall that particular date?

15 A. Yes, I do.

16 Q. First of all, with regard to the funds at the Northwest
17 Savings Bank. In general, which would cover the Northwest
18 Savings Bank that was robbed on this particular date, can you
19 indicate to the jurors whether or not Northwest Savings Bank,
20 whether those deposits at that bank are insured by the Federal
21 Deposit Insurance Corporation?

22 A. Yes, they are.

23 Q. I'm going to show you what I have marked Government
24 Exhibit 7 for identification, can you identify Government
25 Exhibit 7?

APPENDIX 409

P. Supp. Appx. 16

174

1 A. Yes, that's a copy of our certificate, I have the
2 original here.

3 Q. That is a photocopy of the original certificate
4 certifying that the funds at Northwest Savings Bank are insured
5 by the Federal Deposit Insurance Corporation?

6 A. That's correct.

7 Q. On December 2nd of 2000, were the funds so insured?

8 A. Yes, they were.

9 MR. PICCININI: Your Honor, I would request the
10 admission into evidence of Government Exhibit 7.

11 THE COURT: Admitted.

12 BY MR. PICCININI:

13 Q. In addition, Mr. Neizmik, were you involved in conducting
14 an audit of the Northwest Savings Bank at this particular
15 branch in order to determine how much money was stolen from the
16 bank as a result of the bank robbery?

17 A. Yes, I did.

18 Q. And in the course of that audit, did you discover that
19 \$6,736.82 came up missing as a result of the bank robbery?

20 A. That's the correct figure.

21 Q. Finally, with regard to the camera system at the bank,
22 first of all, is that Northwest Savings Bank, is it equipped
23 with a camera system?

24 A. Yes, it is.

25 Q. On this particular date did the camera system function

APPENDIX 410

Back to Search Bank Find

Your Bank at a Glance

Northwest Savings Bank (FDIC Cert: 28178)

is a FDIC Savings Bank and has been FDIC insured since **January 26, 1939**.

It was established on **January 1, 1896**.

Its main office (headquarters) is located at:

**Second At Liberty
Warren, Pennsylvania 16365
County of Warren**

Northwest Savings Bank has **155** Domestic Branches (Offices) located in **5** state(s.) (Check to locate Branches (Offices) by state.)

Northwest Savings Bank's website. <http://www.northwestsavingsbank.com:80/>

Last financial information available about Northwest Savings Bank.

Historical profile of Northwest Savings Bank

The primary regulator is **Federal Deposit Insurance Corporation**.

For additional information please click on one of the following:

1. View the industry's overall picture - Statistics at a Glance
(This will open a new window.)
2. Current Financial data about your bank - Institution Directory - Two years Financial Report
(This will open a new window.)
3. Examine your bank's financial data - CALL/TFR Financial Information
4. Study branching and deposit market share - Summary of Deposits/Market Share
5. Analyze and compare individual institutions and create custom reports - Institution Directory - Compare
6. Review industry using 8 predefined reports - Statistics on Depository Institutions
7. Identify the latest performance trends in your state - Quarterly Banking Profile State Tables
(This will open a new window.)
8. Analyze institutions and custom peer groups - Statistics on Depository Institutions
9. View branch office deposit information - Summary of Deposits
10. Community Reinvestment Act (CRA) Performance Ratings - CRA Performance Ratings
11. FDIC's Disclaimer - FDIC's Disclaimer

For more information on Federal Deposit Insurance, check out Your Insured Deposits and Insured or Not Insured.

Questions, Suggestions & Requests

Home Contact Us Search Help SiteMap Forms
Freedom of Information Act Website Policies FirstGov.gov

Johnsonburg Plaza, Route 219	Johnsonburg	15845	<u>11</u>	10/8/1987
553 Market Street	Johnsonburg	15845	<u>11</u>	2/29/1996
121 Main Street	Ridgway	15853	<u>23</u>	10/15/2002
Main At Mill Streets	Ridgway	15853	<u>11</u>	1/1/1891
39 South St. Marys Street	Saint Marys	15857	<u>11</u>	1/1/1896
Million Dollar Highway	St. Marys	15857	<u>11</u>	6/30/1986
State Route 555	Weedville	15868	<u>11</u>	6/20/1966
Total for Elk County:	7 Office(s)			

Erie County

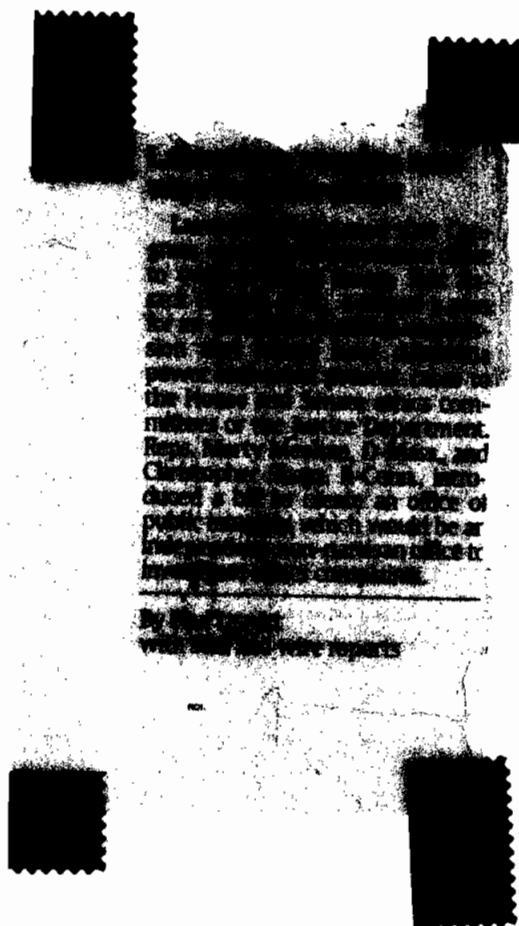
150 North Center Street	Corry	16407	<u>11</u>	1/1/1924
108 Washington Towne Blvd.	Edinboro	16412	<u>11</u>	8/22/2001
800 State Street	Erie	16501	<u>11</u>	11/1/2000
Grandview Plaza	Erie	16504	<u>11</u>	1/1/1896
1408 Grandview Blvd.	Erie	16504	<u>23</u>	3/5/2001
8th And Nevada St	Erie	16505	<u>11</u>	1/1/1896
401 State Street	Erie	16507	<u>11</u>	4/22/1987
3407 Liberty Street	Erie	16508	<u>11</u>	12/11/2003
121 West 26th Street	Erie	16508	<u>11</u>	1/1/1888
1945 Douglas Parkway	Erie	16509	<u>11</u>	1/31/1994
Mill Creek Mall	Erie	16509	<u>11</u>	1/1/1896
K-Mart Plaza West	Erie	16509	<u>11</u>	1/1/1896
4525 Buffalo Road	Erie	16510	<u>11</u>	1/1/1896
★ <u>Millcreek Square, Peach St.</u>	<u>Erie</u>	<u>16565</u>	<u>11</u>	<u>6/30/1989</u>
7512 West Ridge Street	Fairview	16415	<u>11</u>	1/8/2004
4452 East Lake Road	Harborcreek Township	16511	<u>11</u>	6/30/1986
2102 Rice Ave	Lake City	16423	<u>11</u>	6/30/1986
35 East Main Street	North East	16428	<u>11</u>	5/19/1986
4 Perry Street	Union City	16438	<u>11</u>	6/1/1967
22 North Main Street	Union City	16438	<u>11</u>	2/2/1959
14457 South Main Street	Wattsburg	16442	<u>11</u>	7/1/1955
Total for Erie County:	21 Office(s)			

Walnut And Spruce Streets	Marienville	16239	<u>11</u>	1/1/1901
221 Elm Street	Tionesta	16353	<u>11</u>	7/2/1947
Total for Forest County:	2 Office(s)			

Ridge Road And Pennsylvania Avenue	Huntingdon	16652	<u>11</u>	10/4/1971
Total for Huntingdon County:	1 Office(s)			

2 East Main Street	Sykesville	15865	<u>11</u>	6/1/1953
Total for Jefferson County:	1 Office(s)			

350 Locust Street	Columbia	17512	<u>11</u>	1/1/1902
2296 South Market Street	Elizabethtown	17022	<u>11</u>	5/20/1999
1195 Manheim Pike	Lancaster	17601	<u>11</u>	6/24/1999
922 Columbia Avenue	Lancaster	17603	<u>11</u>	6/24/1999



P. Supp. Appx. 70

(202) 502-1100

CODE OF CONDUCT FOR UNITED STATES JUDGES⁽³⁾

CANON 1

**A JUDGE SHOULD UPHOLD THE INTEGRITY
AND INDEPENDENCE OF THE JUDICIARY**

An independent and honorable judiciary is indispensable to justice in our society. A judge should participate establishing, maintaining, and enforcing high standards of conduct, and should personally observe those standards, that the integrity and independence of the judiciary may be preserved. The provisions of this Code should be construed and applied to further that objective.

COMMENTARY

Deference to the judgments and rulings of courts depends upon public confidence in the integrity and independence of judges. The integrity and independence of judges depend in turn upon their acting without fear or favor. Although judges should be independent, they should comply with the law, as well as the provisions of this Code. Public confidence in the impartiality of the judiciary is maintained by the adherence of each judge to this responsibility. Conversely, violation of this Code diminishes public confidence in the judiciary and thereby does injury to the system of government under law.

The Canons are rules of reason. They should be applied consistent with constitutional requirements, statutes, other court rules and decisional law, and in the context of all relevant circumstances. The Code is to be construed so as not to impinge on the essential independence of judges in making judicial decisions.

The Code is designed to provide guidance to judges and nominees for judicial office. The Code may also provide standards of conduct for application in proceedings under the Judicial Councils Reform and Judicial Conduct and Disability Act of 1980 (28 U.S.C. §§ 332(d)(1), 372(c)), although it is not intended that disciplinary action would be appropriate for every violation of its provisions. Whether disciplinary action is appropriate, and the degree of discipline to be imposed, should be determined through a reasonable application of the text and should depend on such factors as the seriousness of the violation, the intent of the judge, whether there is a pattern of improper activity, and the effect of the improper activity on others or on the judicial system. Many of the proscriptions in the Code are necessarily cast in general terms, and it is not suggested that disciplinary action is appropriate where reasonable judges might be uncertain as to whether or not the conduct is proscribed. Furthermore, the Code is not designed or intended as a basis for civil liability or criminal prosecution. Finally, the purpose of the Code would be subverted if the Code were invoked by lawyers for mere tactical advantage in a proceeding.

CANON 2

**A JUDGE SHOULD AVOID
IMPROPRIETY AND THE APPEARANCE**

P. Supp. Appx. 21

OF IMPROPRIETY IN ALL ACTIVITIES

A. A judge should respect and comply with the law and should act at all times in a manner that promotes confidence in the integrity and impartiality of the judiciary.

B. A judge should not allow family, social, or other relationships to influence judicial conduct or judgment
A judge should not lend the prestige of the judicial office to advance the private interests of others; nor convey or permit others to convey the impression that they are in a special position to influence the judge. A judge should not testify voluntarily as a character witness.

C. A judge should not hold membership in any organization that practices invidious discrimination on the basis of race, sex, religion, or national origin.

COMMENTARY

Canon 2A. Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety. A judge must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly. The prohibition against behaving with impropriety or the appearance of impropriety applies to both the professional and personal conduct of a judge. Because it is not practicable to list all prohibited acts, the proscription is necessarily cast in general terms that extend to conduct by judges that is harmful although not specifically mentioned in the Code. Actual improprieties under this standard include violations of law, court rules or other specific provisions of this Code. The test for appearance of impropriety is whether the conduct would create in reasonable minds, with knowledge of all the relevant circumstances that a reasonable inquiry would disclose, a perception that the judge's ability to carry out judicial responsibilities with integrity, impartiality, and competence is impaired.

Canon 2B. The testimony of a judge as a character witness injects the prestige of the judicial office into the proceeding in which the judge testifies and may be misunderstood to be an official testimonial. This Canon, however, does not afford the judge a privilege against testifying in response to an official summons. Except in unusual circumstances where the demands of justice require, a judge should discourage a party from requiring the judge to testify as a character witness.

A judge should avoid lending the prestige of judicial office for the advancement of the private interests of the judge or others. For example, a judge should not use the judge's judicial position to gain advantage in litigation involving a friend or a member of the judge's family. In contracts for publication of a judge's writings, a judge should retain control over the advertising to avoid exploitation of the judge's office.

A judge should be sensitive to possible abuse of the prestige of office. A judge should not initiate the communication of information to a sentencing judge or a probation or corrections officer but may provide to such persons information in response to a formal request. Judges may participate in the process of judicial selection by cooperating with appointing authorities and screening committees seeking names for consideration, and by responding to official inquiries concerning a person being considered for a judgeship.

Canon 2C. Membership of a judge in an organization that practices invidious discrimination gives rise to

P. Supp. Appx. 22

perceptions that the judge's impartiality is impaired. Canon 2C refers to the current practices of the organization. Whether an organization practices invidious discrimination is often a complex question to which judges should be sensitive. The answer cannot be determined from a mere examination of an organization's current membership but rather depends on how the organization selects members and other relevant factors, such as that the organization is dedicated to the preservation of religious, ethnic or cultural values of legitimate common interest to its members that it is in fact and effect an intimate, purely private organization whose membership limitations could not be constitutionally prohibited. See *New York State Club Ass'n. Inc. v. City of New York*, 487 U.S. 1, 108 S. Ct. 222, 101 L. Ed. 2d 1 (1988); *Board of Directors of Rotary International v. Rotary Club of Duarte*, 481 U.S. 537, 107 S. Ct. 1940, 95 L. Ed. 2d 474 (1987); *Roberts v. United States Jaycees*, 468 U.S. 609, 104 S. Ct. 3244, 82 L. Ed. 2d 462 (1984). Other relevant factors include the size and nature of the organization and the diversity of persons in the locality who might reasonably be considered potential members. Thus the mere absence of diverse membership does not itself demonstrate a violation unless reasonable persons with knowledge of all the relevant circumstances would expect that the membership would be diverse in the absence of invidious discrimination. Absent such factors, an organization is generally said to discriminate invidiously if it arbitrarily excludes from membership on the basis of race, religion, sex, or national origin persons who would otherwise be admitted to membership.

Although Canon 2C relates only to membership in organizations that invidiously discriminate on the basis of race, sex, religion or national origin, a judge's membership in an organization that engages in any invidiously discriminatory membership practices prohibited by applicable law violates Canons 2 and 2A and gives the appearance of impropriety. In addition, it would be a violation of Canons 2 and 2A for a judge to arrange a meeting at a club that the judge knows practices invidious discrimination on the basis of race, sex, religion, or national origin in its membership or other policies, or for the judge to use such a club regularly. Moreover, public manifestation by a judge of the judge's knowing approval of invidious discrimination on any basis gives the appearance of impropriety under Canon 2 and diminishes public confidence in the integrity and impartiality of the judiciary, in violation of Canon 2A.

When a judge determines that an organization to which the judge belongs engages in invidious discrimination that would preclude membership under Canon 2C or under Canons 2 and 2A, the judge is permitted, in lieu of resigning, to make immediate and continuous efforts to have the organization discontinue its invidiously discriminatory practices. If the organization fails to discontinue its invidiously discriminatory practices as promptly as possible (and in all events within two years of the judge's first learning of the practices), the judge should resign immediately from the organization.

CANON 3

A JUDGE SHOULD PERFORM THE DUTIES OF THE OFFICE IMPARTIALLY AND DILIGENTLY

The judicial duties of a judge take precedence over all other activities. In performing the duties prescribed by law, the judge should adhere to the following standards:

A. Adjudicative Responsibilities.

(1) A judge should be faithful to and maintain professional competence in the law, and should not be swayed by partisan interests, public clamor, or fear of criticism.

(2) A judge should hear and decide matters assigned, unless disqualified, and should maintain order and decorum in all judicial proceedings.

Respect the Constitution

Opposing view:

Supreme Court should correct its mistake in creating privacy right.

By Bruce Fein

The Supreme Court should repudiate its extra-constitutional right of privacy, not because privacy should be treasured less, but because faithfulness to the Constitution should be coveted more.

Neither "privacy" nor a generalized "right to be left alone" appears in the Constitution. The Constitution entrusts Congress and state legislatures with creating privacy rights either by law or constitutional amendment. They have done so in spades. And the process by which rights are recognized — by legislatures, not courts — is more important than their substance. The history of liberty has been a history of procedural safeguards against one branch of government usurping the powers of another.

The Founders intended the Constitution's original meaning to dictate its interpretation. The amendment process, involving active citizen participation and consensus, was expected to cure shortcomings. Supreme Court encyclicals hoping to summon into being a more perfect society were not contemplated.

Few would want to live in a nation without the Bill of Rights or the post-Civil War

amendments, all proposed by Congress and ratified by state legislatures. But that does not mean the Supreme Court should have short-circuited the process by tortured interpretations of the original Constitution. When the court begins to ape Humpty Dumpty and make words mean whatever it wants them to mean, the justices have placed themselves above the Constitution and assumed the role of patronizing Platonic guardians.

The constitutional right of privacy was born of that evil, and has been brandished to overturn laws regulating abortion, homosexual sodomy and obscenity in the home. Same-sex marriage, polygamy, recreational drug use and jihad are clamoring for equal right-of-privacy protection.

The court enlisted sophomoric words and preposterous inferences in creating that right 40 years ago, talking of "penumbras" and "emanations" from the constitutional text and engaging in vague musings about "the moral fact that a person belongs to himself" and "defin[ing] one's own concept of existence . . . and of the mystery of human life."

Longevity did not shield the odious, 58-year-old "separate but equal" doctrine from being overruled in *Brown v. Board of Education*. Neither should it deter the court from correcting its right-of-privacy stumble.

Bruce Fein was an associate deputy attorney general in the Reagan administration.

G-5

G-5

PS: Apr 24

Unspiring the Constitution

Hot corner. For decades, defenders of the status quo have railed against "activist judges." Before chief justice nominee John Roberts could get a word out at this week's confirmation hearings, senators were lecturing him about the need for judges to be umpires, not players.

Roberts quickly embraced the umpire comparison. But over the course of three days, he quietly but repeatedly made a second point: judges have to field the cases that come before them.

► When the Supreme Court outlawed racial segregation a half-century ago, sparking much of the caterwauling about judges, it wasn't the instigator. The court was forced to rule because lower courts had interpreted the issues involved differently.

► When state court judges in Hawaii, Vermont and Massachusetts ruled that same-sex couples were being illegally discriminated against, they, too, were acting as referees. The cases were brought by couples who could cite equal-rights provisions in their state constitutions and were demanding they be enforced.

► When a federal district judge ruled Wednesday that Pledge of Allegiance ceremonies in three California school districts are unconstitutional, he was at pains to say in his ruling that he had no choice: The appeals court above him had established a standard on the issue that he was bound to follow.

"Activist judge" is a political pejorative that ignores the reality that umpires, whether on the field or on the bench, have to make a call on every pitch that comes at them.

If Roberts is confirmed as chief justice, as seems likely, he could do the nation a service by using his position to make that point clear — and sidelining those who undermine trust in the courts by suggesting otherwise.

Camera shy? Roberts was the star this week at the Senate Judiciary Committee's televised hearings. But, assuming he's confirmed, the next time Americans see him on TV in any official capacity may not be until Jan. 20, 2009, when he swears in the next president on Inauguration Day.

Unlike both chambers of Congress and courts in 47 states, the Supreme Court won't allow its proceedings to be broadcast. The worry is that cameras could encourage attorneys to grandstand for viewers and would violate the justices' privacy. "The day you see

a camera come into our courtroom, it's going to roll over my dead body," Justice David Souter told a congressional panel in 1996.

Roberts may not be as camera-shy. In response to a question about courtroom cameras, he was noncommittal but said he would

seek the opinions of other justices. He hinted, though, that he might not oppose the move: "My new best friend, Sen. Thompson, assures me that television cameras are nothing to be afraid of." Fred Thompson, a former Republican senator from Tennessee who helped Roberts prepare for his testimony, plays a prosecutor on NBC's *Law & Order*.

Deliberations need to remain private, but arguments about the most controversial issues of our time before the justices who will decide them shouldn't be limited to the first 400 spectators who line up outside the court building.

"Sunshine is the best disinfectant," the late justice Louis Brandeis said about how secrecy can erode liberty. It's long past time that the court applied the same reasoning to itself.

Unconstitutional? Sen. Robert Byrd, D-W.Va., isn't a member of the Judiciary Committee, but he's one of the Senate's leading experts on the Constitution. He carries a pocket copy with him and is appalled by many students' ignorance of the seminal document signed on Sept. 17, 1787.

So last year, Byrd put an amendment into a 3,000-page spending bill that requires all schools receiving federal funding to teach about the Constitution every Sept. 17.

Because Sept. 17 falls on a Saturday this year, many schools will obey the law today. Across the USA, educators will dress up as George Washington or Patrick Henry to lead patriotic skits and songs.

This might sound harmless, even beneficial, but not everyone is celebrating.

At Vanderbilt University Law School, professors will observe the day next week by debating whether Byrd's law is constitutional. Compelling speech, says Dean Edward Rubin, tramples on the First Amendment.

You don't have to be a constitutional lawyer to understand why Constitution Day sets a bad precedent. What's next? Congress ordering schools to teach "intelligent design" instead of evolution? Or the glories of West Virginia on Sen. Byrd's birthday?

There's something about the Constitution Day mandate that seems, well, un-American.



John Roberts



David Souter



Robert Byrd

Q-1

P. Supp. Annex. 25

Is our faith in government dying?

Sure, the Republicans are in trouble, suffering from some of the same ailments that buried Democrats in 1994. The real danger, though, is when the illness undermines the American public's trust in government.

By Ross K. Baker

Republicans in the White House and Congress, who are facing a host of legal and ethical problems resembling a patient suffering from multiple but unrelated ailments who might be able to fight off one affliction but is ultimately killed by the stacking effects of all of them.

Similar diagnosis is based on:

► Indictment of vice-presidential pick "Scooter" Libby for alleged perjury in the investigation of Justice Secretary George W. Bush's efforts to discredit a report that cast doubt on Saddam Hussein's efforts to acquire uranium. After former ambassador Joseph Wilson filed the report, sources exposed his wife's job as a CIA officer.

► The cloud of suspicion that hangs over White House Deputy Chief of Staff Karl Rove in that outing of the ambassador's wife.

► The September indictment in Texas of John Edwards, the majority leader of the U.S. House of Representatives, for allegedly stealing the state's gubernatorial name laws.

► An investigation that the Securities and Exchange Commission is conducting into the sale of stock of a family corporation by Senate Republican leader Bill Frist.

► The sprawling scandal associated with the recently indicted lobbyist Jack Abramoff. It has already resulted in a charge of conspiracy against his public relations slickback and former lobbyist, Michael Scanlon, and the arrest of one White House official. The scandal has also raised questions about the actions of Deputy House Administration Committee chairman Bob Ney, R-Ohio, Ralph Reed, former director of the Christian Coalition

and candidate for lieutenant governor of Georgia, and anti-tax activist Grover Norquist.

► E-mail revelations, at hearings of the Senate Indian Affairs Committee, that a former deputy secretary of the Interior Department might have asked for preferential treatment for Abramoff's clients, Indian tribes with interests in gambling casinos, about the same time that Abramoff says he was courting the official to join his firm.

► E-mail messages that have come to light revealing that Michael Bisconti, initially by Libby and Rove to discredit former ambassador Wilson with the FEMA director Brown's halting response to Hurricane Katrina, these revelations can cross-contaminate each other in the eyes of the public and acquire more sinister dimensions. These problems, some related and others independent, have enabled Democrats to deny a "culture of corruption," a slogan that will certainly be a rallying cry for the congressional elections of 2006. But the Democrats have yet to come up with an agenda comparable to "Contract With

Unrelated or not, multiple scandals and blunders of public officials come to resemble a pandemic.

praised by President Bush for the Federal Emergency Management Agency's response to Hurricane Katrina, was more concerned with his wardrobe than with a relief effort in New Orleans.

Political scandals and intrigues often occur in clusters, and cast a pall of suspicion over the party in power. Sometimes, they are traceable to a single source. Such was the case in the Nixon White House with its Watergate burglary and subsequent investigations.

At other times, they are unconnected but just happen to crop up simultaneously, thereby taking on the appearance of a single seamless scandal, as while not even the most ingenious Derpocratic conspiracy theorist could connect the alleged efforts

by Libby and Rove to discredit former ambassador Wilson with the FEMA director Brown's halting response to Hurricane Katrina, these revelations can cross-contaminate each other in the eyes of the public and acquire more sinister dimensions. These problems, some related and others independent, have enabled Democrats to deny a "culture of corruption," a slogan that will certainly be a rallying cry for the congressional elections of 2006. But the Democrats have yet to come up with an agenda comparable to "Contract With

America," which Republicans used to reclaim both houses of Congress in 1994 after 40 years of Democratic dominance. Former president Bill Clinton, for whom the 1994 election was a major setback, can well appreciate the problems consuming Republicans today. He took office in the wake of the House bank scandals with public approval of the Democratic Congress at an unprecedented low of 17%. But Clinton quietly got into problems of his own with Travelgate, the firing of some employees in the White House travel office to make way for Clinton loyalists.

No sooner was that fire quenched than the White House had to cope with the suicide of presidential aide Vincent Foster and the epidemic of conspiracy theories his death inspired.

And little less than a year from his inauguration, Clinton found himself needing to request a special prosecutor to look into his and the first lady's investments in the

Whitewater land transaction. To add to his troubles, an important ally, House Ways and Means Committee Chairman Dan Rostenkowski, was indicted and pleaded guilty to mail fraud.

Combined with missteps on gays in the military and a failed health care initiative, the election of 1994 was a debacle for Democrats.

Unrelated or not, multiple scandals and blunders of public officials come to resemble a pandemic. The percentage of Americans who regard President Bush as honest and trustworthy has fallen to 46%, according to the latest USA TODAY/CNN/Gallup Poll. This number alone is eloquent evidence of the toxicity of these scandals and investigations.

The most afflicted, however, is not the Bush administration and the congressional Republicans up for re-election in 2006. It is the faith of Americans in their government, and it encompasses the entire range of government activities from disaster relief to the war in Iraq.

The much-discussed bird flu will become truly dangerous only if it mutates in a way that allows it to spread easily from person to person. Then and only then might we be hit by a global pandemic.

The bird flu is an apt metaphor for what's going on in Washington today. The question is: Will the virus of scandal and corruption leave the capital and infect our populace beyond the Beltway, undermining our trust in government from coast to coast?

It might be too late for a vaccine to immunize the American population against this debilitating condition.

Ross K. Baker is a political science professor at Rutgers University. He also is a member of USA TODAY's board of contributors.